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Docket No.: 1568.1024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8
8.21.3

In re the Application of:

Jin-young LEE

Serial No. 09/961,294

Group Art Unit: 1745

Confirmation No. 6532

Filed: September 25, 2001

Examiner: Laura S. Weiner

For: POLYMERIC ELECTROLYTE AND LITHIUM BATTERY EMPLOYING THE SAME

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is responsive to the Office Action mailed July 31, 2003, having a shortened period for response set to expire on August 31, 2003, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Group 1, claims 1-19 and 25** in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Groups II, III, and IV are concerned, it is believed that claims 20-21 and 26-27, 22-24 and 28-29, and 30 are so closely related to elected claims 1-19 and 25 that they should remain in the same application to preserve unity of the invention and to avoid any possibility of a double patenting issue arising at some later date. The elected claims 1-19 and 25 are directed to a polymeric electrolyte and claims 20 - 21 and 26-27, 22-24 and 28-29, and 30 are drawn to a method of manufacturing a lithium battery, a method of manufacturing a lithium battery comprising a separator, and a method of manufacturing a lithium battery by injecting a prepolymer mixture, respectively. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed,

moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II, III, and IV claims by filing divisional applications.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)-§806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Even if the Examiner considers claims 1-19 and 25 to be a separate invention from claims 20-21 and 26-27, 22-24 and 28-29, and 30, the Applicants respectfully requests the Examiner to consider claims 20-21 and 26-27 (Group II), claims 22-24 and 28-29 (Group III), and claim 30 (Group IV), which are all directed to methods, together.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the method recited by the Group II, III, and IV claims are drawn to a method of manufacturing a lithium batter, a method of manufacturing a lithium battery comprising a separator, and a method of manufacturing a lithium battery by injecting a prepolymer mixture, respectively, and elected claims 1-19 and 25 are directed to a polymeric electrolyte, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 8/20/03

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